IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

CWP No. 502 of 2006

Date of Decision: 8th January, 2007.

Arun Sood .....Petitioner.

Versus

State of H.P. and others ……Respondents.

Coram

The Hon'ble Mr. Justice V.K. Gupta, Chief Justice.
The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. R.K. Bawa, Sr. Advocate with Mr.RP Thakur, Advocate.

For the Respondents: Mr. M.S. Chandel, Advocate General with Mr. J.K. Verma, Dy. Advocate General for respondents No. 1 &2.
Mr. Shrawan Dogra, Advocate for respondent No.3.

V.K. Gupta, C. J. (Oral):

In view of the short Order that we propose to pass, we do not think it desirable to go into the merits of the case because we do not want either to prejudge the issue or make any observation which may tend to influence the learned H.P. Administrative Tribunal for deciding either O.A. No. 1521 of 2006 or the Miscellaneous Applications connected with this O.A.

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[1] Whether Reporters of Local Papers may be allowed to see the judgment?

Relating to and arising out of Order No. TPT-B(1) 15/2000 dated 18th March, 2006 whereby the petitioner had been reverted from the post of RTO with immediate effect and had stood accordingly posted as Superintendent Grade II in the office of Director (Transport), Shimla (It is the admitted case of the parties that later on vide Order No. TPT-B(3)1/99 dated 7th April, 2006 the petitioner had been promoted as Superintendent Grade I) the learned Tribunal passed an ad interim order on 9th May, 2006 in O.A. No. 1521 of 2006, which reads thus:-

> "Notice pending admission.
>
> Learned Additional Advocate General appears and waives service of notice on behalf of respondents No. 1 and 2. Issue notice to respondent No.3 to file reply within four weeks.
>
> In the meantime, operation of Annexure A-8 qua the applicant is stayed.
>
> Copy dasti."

[It is admitted by the parties before us that Annexure A-8 mentioned in the aforesaid Order is actually the order dated 18th March, 2006 (supra)].

When the matter again came up before the learned Tribunal on 9th June, 2006, under the caption of MAs 1607/2006 and 1591/2006, the following Order was passed:-

> " Interim order passed on 9.5.2006 in the main matter is modified to the extent that the reversion of the applicant shall be subject to the final decision of the original application. Miscellaneous applications stand disposed of accordingly.
>
> Dasti."

It happens some-times that the Courts and various other Fora including Administrative Tribunals, while entertaining the matters in the first instance and while granting ad interim exparte injunctions or stays do not pass speaking orders. It is perhaps keeping in view this practice that on 9th May, 2006 while the learned Tribunal decided to issue notice to respondent No.3 it passed a non-speaking single line order granting ad interim relief in favour of the petitioner by staying the operation of Annexure A-8 qua the petitioner.

Even while some Courts and Tribunals pass non-speaking, unreasoned orders granting ad interim reliefs, exparte at the threshold, later on, after contest when the parties appear before the Courts or the Tribunals, or for any other reason the Courts or the Tribunals feel that the earlier order, even though sit having been passed without having assigned reasons, should be modified, varied or vacated, it is the bounden duty of the Courts and the Tribunals at that stage to assign reasons and pass speaking orders, varying, modifying or vacating the earlier ad interim orders. As in the present case, in some other cases also we have noticed in the past that the learned H.P. Administrative Tribunal during the interlocutory stages as well as proceedings of the Original Applications pending before it vacates, varies or modifies the earlier orders by passing one line orders, without assigning any reason or without in any other manner indicating its mind as to why, on what basis and on what grounds was the earlier order vacated, varied, or modified. We do not approve of this approach of the learned Tribunal and do wish to impress upon the Tribunal the imperative as well as paramount legal requirement of passing speaking orders and indicating the reasons, even though brief

reasons, based upon which the earlier orders are vacated, modified or varied by the Tribunal. We are saying so because of the fact that once an exparte ad interim order is passed by a Court at the initial stage in a case, even though it may not contain reasons or grounds in support thereof, since a vested right starts accruing in favour of the person who has obtained such an exparte ad interim order, the Court at a later stage taking away that right by vacating, modifying or varying that order must indicate its mind as to why did it take away that right and the best way of doing so is to assign reasons and grounds in support thereof. We are not saying that reasons and grounds must be very elaborate or must be very detailed because even the latter order varying, modifying or vacating the earlier order might be at an interlocutory stage of the proceedings but reasons and grounds must be there even though briefly stated. The additional advantage of doing so is also to inform the parties about the reasons and grounds upon which the earlier order has been varied, modified or vacated.

Based upon the aforesaid reasons, the impugned order dated 9th June, 2006 is set aside. The matter is remitted back to the learned Tribunal with direction to decide, by passing a speaking order, on the interim injunction application of the petitioner. Since, according to Mr. Bawa, the petitioner is scheduled to retire on 30th April, 2007 we direct that the aforesaid shall be done and completed by the learned Tribunal before 28th February, 2007.

With a view to ensuring that by our setting aside of the Tribunal's order dated 9th June, 2006 no confusion is created, we direct that the

status quo as existing on date with respect to the posting and positioning of the petitioner and respondent No.3 shall be maintained.

A copy of this judgment shall be sent to the learned Chairman of the Tribunal for his kind consideration and necessary, appropriate action by him.

Dasti copy.

(V.K. Gupta), C.J.

January 8, 2007. **(V.K. Ahuja), J.**
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